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Mr. William Sessions  
Country of Origin Labeling Program  
Room 2092-S  
Agricultural Marketing Service,  
USDA STOP 0249  
1400 Independence Avenue SW  
Washington, DC 20250-0249

**Re: Docket No. LS-03-04**

**Sent via email and First Class Mail**

Dear Mr. Sessions,

Thank you for your continuing work on the Country of Origin Labeling regulation as it applies to shellfish. I am writing with comments specifically regarding the concerns about the definition of "farmed" in the interim final rule for Country of Origin.

The definition of "farmed" as contained in the rule as applied to shellfish does not appropriately encompass the broad range of production techniques and strategies employed by shellfish growers. Most importantly the rule does not envision strategies on the low-intensity end of the aquaculture continuum that has traditionally been known as aquaculture. An example of this may be wild spat collected from natural beds and distributed on a leased or otherwise managed bed. In addition, the rule also does not encompass those growers at the high intensity end of the aquaculture continuum such as the grower who utilizes hatchery reared seed, transfers the seed to a floating upweller, and then is bottom planted naturally on the bottom. Both types of activities have historically been recognized as "farmed."

Use of the term "leased" when describing beds is too restrictive. "Leased" does not encompass beds when the rights to the bottom are owned outright, nor does it include other arrangements when an individual, other entity or association has a reasonable expectation of harvest rights in the shellfish planted. A non-inclusive listing of these other arrangements includes permits, licenses,

cooperatives, tribal activities, cooperative public/private relationships, community projects, and others. As just one example, in Maine, for example, a lease is not required for the bottom culture of shellfish.

The list of production enhancements should be omitted. Such a list limits rather than encompasses other activities. Determinations of whether specific shellfish are farmed or wild should be made on a case by case basis, should look to a reasonable expectation of harvest rights in the shellfish grown and the extent of production enhancements employed.

### Suggested Changes to Interim Final Rule

#### **§ 60.106 Farm-raised fish.**

*Farm-raised fish* means fish or shellfish that have been harvested in controlled environments, including ocean-ranched (*e.g.*, penned) fish and including shellfish harvested from controlled or managed beds in which there is a reasonable expectation of harvest rights and have been subjected to production enhancements; and fillets, steaks, nuggets, and any other flesh from a farm-raised fish or shellfish.

In summary, I suggest that the three critical prongs in a revised definition of *farmed* include a) a case by case determination; b) a reasonable expectation of harvest rights; and, c) the extent of production enhancements employed.

Sincerely,

Lori A. Howell